

of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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Comment Date: 5 p.m. Eastern Time on July 6, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-14792 Filed 6-23-09; 8:45 am]
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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR09-11-000]

BP West Coast Products LLC Complainant v. Calnev Pipe Line, L.L.C. Respondent; Notice of Complaint

June 17, 2009.

Take notice that on June 15, 2009, pursuant to section 206 of the Rules and Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, section 343.2 of the Procedural Rules applicable to oil pipeline proceedings, 18 CFR 343.2, sections 1(5), 8, 9, 13, 15, and 16 of the Interstate Commerce Act, 49 USC App. 1(5), 8, 9, 13, 15, and 16 (1988), and section 1803 of the Energy Power Act of 1992, BP West Coast Products LLC (Complainant) filed a formal complaint against Calnev Pipe Line, L.L.C. (Respondent) seeking an audit of the Respondent's 2007 and 2008 FERC Forms 6 in connection with the Respondent's 2009 index rate increases to become effective July 1, 2009.

The Complainant certifies copies of the complaint were served on both the counsel for the Respondent and the contacts of the Respondent listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Efficiency and Conservation Block Grant Program

AGENCY: Department of Energy (DOE).
ACTION: Notice.

SUMMARY: DOE is announcing an appeals process for eligibility determinations published in the funding opportunity announcement issued under the Energy Efficiency and Conservation Block Grant (EECBG) program. This notice specifies the issues that can be appealed, the process for filing an appeal, and the procedure applicable to adjudicate such appeals. All appeals will be reviewed by the DOE Office of Hearings and Appeals (OHA). The deadline for submitting an appeal with OHA is 30 days following the publication of this notice.

DATES: All appeals must be filed, as described in the **SUPPLEMENTARY INFORMATION** section of this notice, no later than July 24, 2009.

FOR FURTHER INFORMATION CONTACT: For questions regarding the EECBG Program contact EERE's Information Center, at <http://www1.eere.energy.gov/informationcenter/>, or call toll-free at 1-877-EERE-INFO (1-877-337-3463), between 9 a.m. and 7 p.m. EST, Monday through Friday.

For questions regarding the EECBG appeals process contact Fred L. Brown, Deputy Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585-0107, (202) 287-1545, Fred.Brown@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Independence and Security Act of 2007 (EISA) established the Energy Efficiency and Conservation Block Grant (EECBG) Program, which provides, in part, for a direct formula grant program for States, eligible units of local government, and Indian Tribes. (42 U.S.C. 17151-17158) On April 15, 2009, DOE published in the *Federal Register* formulas for allocation of direct grants under the EECBG Program. 74 FR 17461. DOE also published a funding opportunity announcement that identified the "eligible units of local government," Funding Opportunity Number: DE-FOA-0000013, Amendment 00003 (available at: <http://www.eecbg.energy.gov/>).

For the purpose of the EECBG program, an "eligible unit of local government" was defined by EISA to be a city or county that met population thresholds specified in statute. (42 U.S.C. 17151) Further, to be defined as an "eligible unit of local government," DOE determined that a geographical subdivision also must have a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA. EISA specifically enumerated the following activities as activities that achieve the purpose of the EECBG Program—

(1) Development and implementation of an energy efficiency and conservation strategy as required by EISA;

(2) Retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—

(A) Formulation of energy efficiency, energy conservation, and energy usage goals;

(B) Identification of strategies to achieve those goals—

(i) Through efforts to increase energy efficiency and reduce energy consumption; and

eligible city in determining the population of a county.

By removing the population of an eligible city in determining the population of a county, DOE reduced the instances in which a person would be double-counted, *i.e.*, counted once for determination of a city's eligibility and again in determining a county's eligibility. This distinction between city and county populations yields a determination of eligibility that results in funds being distributed more on a per capita basis, which DOE believes is one way to provide greater equity in the allocation of funds between cities and counties under the direct formula grants.

A complete discussion of how DOE determined whether a city or county is an "eligible unit of local government" is provided in the April 15, 2009, Federal Register notice (74 FR 17461).

II. Issues Giving Rise to the Appeals Process

As indicated above, DOE applied four factors in the evaluation of whether a city or county qualifies as "eligible unit of local government" for the purpose of the EECBG Program. A city or county is an "eligible unit of local government" under the EECBG Program if it—

- Is listed in the 2007 GID as an incorporated entity;
- Meets the required population threshold according to the Population Estimates Program 2007 population estimates (including successful challenges to these estimates) published by the U.S. Census Bureau;
- Is identified by the 2007 Census of Governments as having a governance structure consisting of an elected official and governing body; and
- Has a governing structure, as indicated by the 2007 Census data, with the capabilities and jurisdiction necessary to carry out the broad range of EECBG programs.

DOE relied on the 2007 Census data and information in evaluating each factor, as it is the official government source for this type of data and information. Moreover, the U.S. Census Bureau provided an opportunity for local governments to request corrections to the 2007 data and information. That process closed on January 5, 2009. Additional information on the U.S. Census Bureau population estimates process can be found at <http://www.census.gov/popest/estimates.html>.

A. Assumption Regarding Government Function and Jurisdiction

In evaluating the four factors, DOE relied on the characterization of city and county governing structures to

determine whether cities and counties had sufficient jurisdiction and government function to carry out the activities set forth in Title V, Subtitle E of the EISA. However, the characterization of city and county governments in the 2007 Census data was not in the context of the EECBG Program. DOE recognizes that the characterization of the governing structure of a city or county may not have been sufficiently informative for the purpose of determining eligibility under the EECBG Program. As such, there are two specific instances in which the characterization of a city or county government may be reviewable on appeal.

The first instance in which the characterization of government may not have been sufficiently informative, and therefore reviewable on appeal, is for those counties (or county equivalents) listed by the 2007 Census of Governments as having limited governmental functions. As stated earlier in this notice, DOE determined that in order to be an "eligible unit of local government," a geographical subdivision must not only have the requisite population but also must have a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA, and listed earlier in this notice. The Department deemed ineligible those counties characterized by the 2007 Census of Governments as having limited governmental function. The capability of a county to discharge the broad range of programs authorized by the EISA is reviewable on appeal.

If a county (or county equivalent) was determined to be ineligible by DOE based on the 2007 Census of Governments characterization of government function, that county would need to demonstrate on appeal that it has the jurisdiction and functional capabilities necessary to carry out the types of projects identified by EISA. The information provided on the appeal should be authoritative but need not be exhaustive. The appeal should demonstrate that the county (or county equivalent) is capable of implementing programs or projects that are consistent with those listed by EISA as activities that further the goals of EECBG. A county (or county equivalent) may include previous examples where the applicant has carried out such activities.

The second instance in which the characterization of government by the 2007 Census data may not have been sufficiently informative, and therefore reviewable on appeal, involves the assumption by DOE that a city (or city

equivalent) listed by the 2007 GID as an incorporated entity has a functional government with responsibilities and jurisdiction capable of implementing the broad range of programs identified by EISA. Based on this assumption, DOE subtracted from the population of an incorporated city (or city equivalent) the population of an incorporated city (or city equivalent) that is located within the boundaries of the first incorporated city. DOE adjusted population in this manner so as to avoid double-counting the population of two potentially eligible entities. However, in some instances the "nested city" (*i.e.*, the city located within the boundaries of another city) may not have sufficient jurisdiction and government function to carry out the types of programs identified in EISA and in turn rely on the larger city for such services.

If DOE determined that a city (or city equivalent) was ineligible because it did not have the requisite population and the population relied on by DOE excluded the population of a "nested city," that city (or city equivalent) would need to demonstrate that the "nested city" lacks sufficient jurisdiction and government function to carry out the types of projects listed in EISA, and the "nested city" relies on the appellant city for such services. Again, the information provided on the appeal should be authoritative but need not be exhaustive. The appeal should demonstrate that the larger city provides services to the "nested city" of the type necessary to implement programs or projects that are consistent with those listed by EISA. A city (or city equivalent) may include previous examples where the applicant has carried out such activities.

B. Corrections to the 2007 Census Data

As indicated above, DOE used the Census 2007 Population Estimates Program population estimates with updates to reflect challenges to the 2007 population estimates submitted to and accepted by the Census Bureau. However, a unit of local government may appeal an eligibility determination that was based upon 2007 Census data that was successfully challenged, but the successful challenge was not reflected in the DOE's determination of eligibility. An appeal based on this issue would need to provide documentation of a successful challenge to the 2007 Census data.

C. Issues Not Reviewable on Appeal

Issues regarding the methodology established by DOE to determine the population of a city or county are not reviewable on appeal. For example, the